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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,291	12/03/2003	David W. Pratt	1053.30	1290
21901	7590	11/13/2006	EXAMINER	
SMITH HOPEN, PA 180 PINE AVENUE NORTH OLDSMAR, FL 34677			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/707,291	PRATT, DAVID W.
	Examiner PAUL T. CHIN	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 September 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. Applicant's amendment filed September 5, 2006, and the arguments presented therewith have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL.**

### *Drawings*

2. The drawings were received on April 25, 2006. These drawings are approved.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunkin et al. (4,590,810) (see PTO-892, mailed February 2006) in view of Krueger (3,295,686).

Hunkin et al. (4,590,810) discloses a bailer comprising a cylindrical main body (10); a valve housing with tapered sidewalls (12,17) secured to a leading end of said cylindrical main body; said cylindrical main body having a trailing end adapted to be engaged by a means (Fig. 1) for lowering said bailer into a body of liquid fluid and for raising said bailer from said body of liquid fluid; a check valve (19) disposed in said valve housing, a bottom-emptying device (see Exhibit A, next page) having a bottom wall and tapered sidewalls mounted about the bottom wall; periphery of said tapered sidewalls of said bottom-emptying device overlying the tapered sidewalls of said valve housing when said

valve housing is fully received within said bottom-emptying device, an aperture formed in said bottom wall; a downspout depending from the bottom wall, said downspout having a lumen in fluid communication with said aperture; a peg (24) mounted in upstanding relation to said bottom wall, said peg being positioned adjacent said aperture. Note that Hunkin et al. (4,590,810) shows a valve housing having upper tapered walls (12) and lower tapered walls as shown in figure 1.

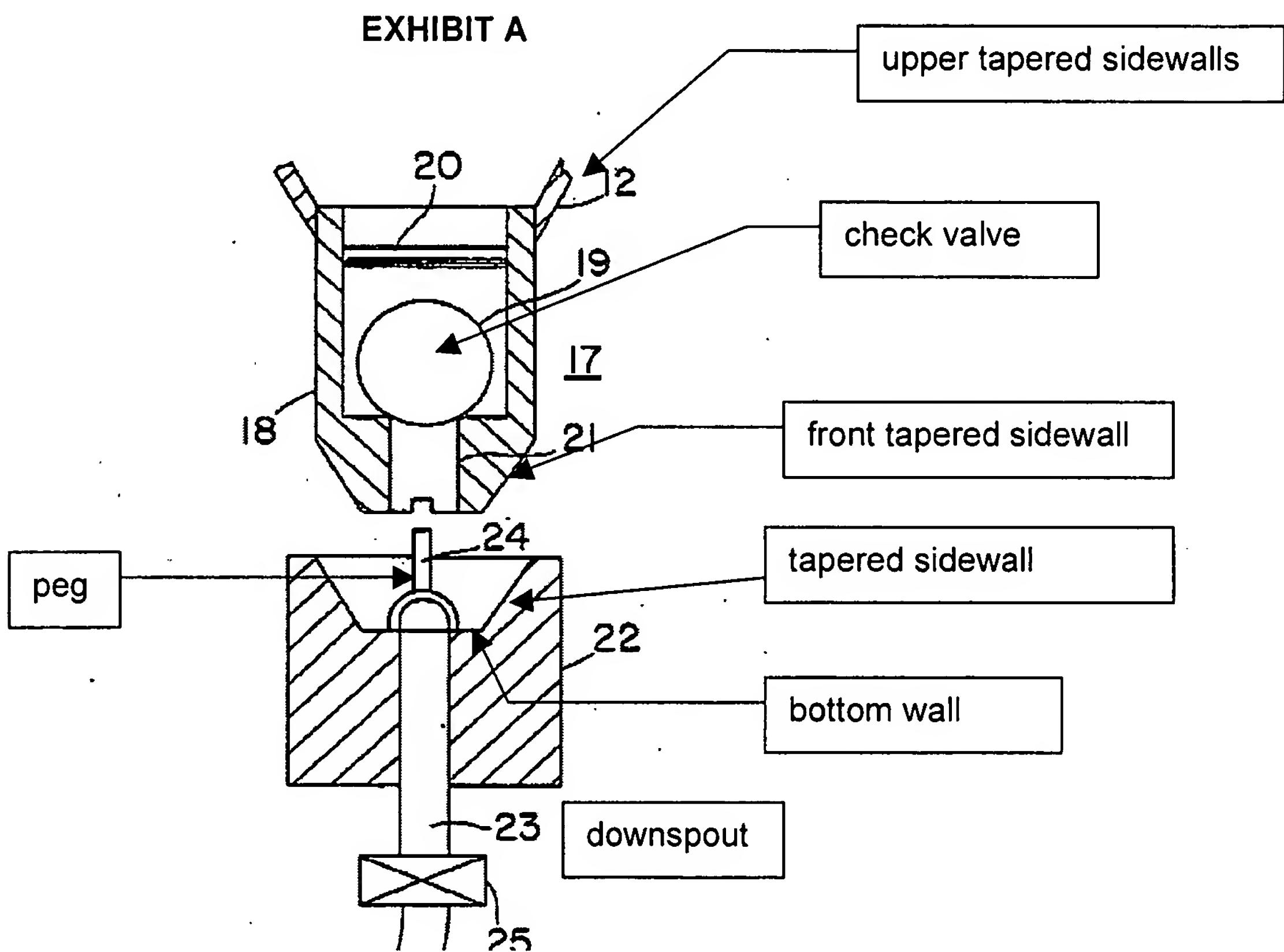


Exhibit A shows a bottom emptying device having a bottom wall and tapered side walls mounted about the periphery of the bottom wall wherein the bottom wall further having an aperture and a peg (24) mounted in upstanding relation to the bottom wall, and a downspout (23) depending from the bottom wall and being positioned substantially adjacent to the aperture. The downspout (23) has an inner bore or a lumen to allow the fluid flow from the downspout to the desired container. Hunkin et al. (4,590,810) does

not show an annular bead on the leading end of the tapered wall and an annular groove in an interior surface of the tapered sidewalls when the valve housing is fully received within the bottom-emptying device. However, Krueger (3,295,686) teaches a housing (7) having an annular lip or bead (13) (Fig. 1) on the leading edge of the wall and an annular groove in an interior surface of the sidewalls (15) to snap on and retain an airtight relationship one to another (Col. 2, lines 36-48). Accordingly, it would have been obvious to those skilled in the art to provide an annular lip or bead on the leading end of the tapered wall (18) (Fig. 2) of Hunkin et al. (4,590,810) and an annular groove in an interior surface of the tapered sidewalls (22) of Hunkin et al. (4,590,810) as taught by Krueger (3,295,686) to securely connect together and to prevent from leaking.

Re claims 2 and 3, Exhibit A shows a peg (24) and a check valve (19) positioned at the leading end of the housing.

Re claims 4-9, the downspout (23) of Hunkin et al. device is a predetermined diameter, one to four inches, adapted to guide the desired containers (Col. 3, lines 41-66) and Hunkin et al. device is capable of performing the functions such as being guided to a vial or a wide mount container.

#### ***Response to Arguments***

5. Applicant's amendment and the arguments filed April 26, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, the arguments are moot in view of a new ground(s) of rejection.

#### **Hunkin et al. (4,590,810)**

In response to applicant's argument that "the user of Hunkin structure must hold the emptying device of a bailer as long as it takes for the bailer to empty" (3<sup>rd</sup> paragraph of page 6), a recitation of the intended use of the claimed invention must result in a

structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Note that Hunkin device is capable of “unseating the check valve (19) by the peg (24) when the valve housing is fully received within the bottom-emptying device so the liquid within the bailer would flow through the leading end”. Moreover, Hunkin device is capable of being adapted to guide into a wide mouth container or a vial.

**Krueger (3,295,686)**

Krueger (3,295,686) teaches a housing (7) having an annular lip or bead (13) (Fig. 1) on the leading edge of the wall and an annular groove in an interior surface of the sidewalls (15) to snap on and retain an airtight relationship one to another (Col. 2, lines 36-48). The modification of the leading end of the tapered wall (18) (Fig. 2) of Hunkin et al. (4,590,810) by providing an annular lip or bead and by providing an annular groove in an interior surface of the tapered sidewalls (22) of Hunkin et al. (4,590,810) as taught by Krueger (3,295,686) would securely connect together and to prevent from leaking.

**Applicant's admission**

Applicant also admits that “snap fit bead and groove connections are well known” (line 1 of 3<sup>rd</sup> paragraph of page 6), but argues that “it was not obvious to provide such connection in the Hunkin device because such improvement, if it had been obvious, would have been provided by Hunkin” (3<sup>rd</sup> paragraph of page 6). It is answered that Hunkin is not necessary to provide such connection of the snap fit and groove connection. However, the modification of the leading end of the tapered wall (18) (Fig. 2) of Hunkin et al. (4,590,810) by providing an annular lip or bead and by providing an annular groove in an interior surface of the tapered sidewalls (22) of Hunkin et al.

(4,590,810) as taught by Krueger (3,295,686) or admitted by the applicant would securely connect together the bead and the groove and to also prevent from leaking.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
7. Applicant's amendment (the addition of new structural limitation in claim 1 in combination with other structural limitations) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PTC



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